

**Remarks**

Claims 1-19 are pending in the present application. Claims 1-19 are rejected. Claims 1, 18 and 19 are currently amended.

**Rejection under 35 U.S.C. §103 (a)**

The Examiner has rejected claims 1, 7-11 and 15-16 under 35 U.S.C. §103(a) as being unpatentable over Calabrese '226 in view of McFarlane. Applicant respectfully traverses this rejection.

Applicant has amended claim 1 to include the support plate positioned parallel to the wearer's jawbone. Neither Calabrese nor McFarlane discloses this limitation. McFarlane's vertical stay members are not analogous to Applicant's claimed parallel support members. McFarlane's vertical stay members are positioned perpendicular to the wearer's jawbone, and would create substantial pressure points if positioned under the jawbone. To the contrary, Applicant's claimed parallel support members distribute forces along the mandible bone, thereby reducing excessive pressure points. It is noted that by "parallel" it is meant that the support extends no further in the vertical direction than the horizontal direction. McFarlane contemplates positioning vertical stay members juxtaposed to one another to form support along a greater area if desired. This would not be analogous to Applicant's claimed parallel support members as the series of support members would be structurally inferior to Applicant's claimed plates due to support members' movement with respect to each other. If Applicant's parallel support members were obvious, McFarlane would have included supports of dimensions that would allow them to be disposed parallel to the wearer's mandible. McFarlane clearly did not recognize this

advantage and discusses only variations in length of the supports (col. 2, lines 45-56).

Accordingly, Applicant's claimed invention is patentable over Calabrese in view of McFarlane.

Withdrawal of the §103 rejection of claims 1, 7-11 and 15-16 is, therefore, respectfully requested.

The Examiner rejects claims 2-6, 12-14 and 17 as being unpatentable over Calabrese '226 in view of McFarlane, and further in view of Monfardini. The Examiner cites Monfardini as disclosing support members that are rectangular, substantially flat, and have rounded corners. Applicant respectfully traverses this rejection.

Monfardini discloses elongation adjusting components 20 to adjust the relative position of the upper and lower sections 18, 19, of the collar. (col. 2, lines 60-72). These components are not analogous to Applicant's claimed lateral reinforcing support members. The claimed shape and position of Applicant's support members are important to their support function, which differs from Monfardini's adjustment function. The shape and position distribute forces along the mandible bone in lateral locations. As Monfardini's components 20 serve a different function, i.e. adjustment of the collar height, their shape does not anticipate Applicant's claimed shape limitations.

Furthermore, Monfardini does not disclose flat plates with rounded corners. Monfardini discloses rounded tops and bottoms. There is no radius disposed at the corners of Monfardini's adjustment components. If Monfardini's components were placed parallel to the mandible, there would be non-rounded edges directed toward the wearer's mandible. These edges would create undesirable effects, such as irritation to the wearer. Applicant's rounded corners eliminate all

such edges. Accordingly, the combination of Calabrese, McFarlane and Monfardini does not anticipate Applicant's invention as covered in claims 2-6, 12-14 and 17. Applicant therefore, respectfully requests withdrawal of the rejection.

The Examiner rejects claims 18 and 19 as being unpatentable over Calabrese in view of McFarlane. Applicant respectfully traverses this rejection.

Applicant has amended claims 18 and 19 to include the limitation of the support member being substantially parallel to the wearer's mandible. As noted above, McFarlane does not disclose a support member positioned parallel to a wearer's jawbone. Claims 18 and 19 have been amended to include this limitation, and therefore, the combination of Calabrese and McFarlane does not render claims 18 and 19 unpatentable. Applicant, therefore, respectfully requests withdrawal of the rejection of claims 18-19.

### **Information Disclosure Statement**

Pursuant to Applicant's duty of disclosure, Applicant submits an International Search Report dated March 2, 2004, and a European Search Report dated July 6, 2006. Authorization is given to charge the \$180.00 associated fee for filing the Information Disclosure Statement to Deposit Account No. 13-3405.

The Supplemental European Search Report identifies U.S. Patent 4,782,824 to Davies. Davies is directed to a device for maintaining the upper airway passage of a patient in an open, unobstructed position. Davies differs from the claimed invention in that it is a rigid device, in contrast to Applicant's claimed collar front comprising a soft flexible material. As Davies'

device is rigid, there would be no need to add lateral support as claimed by Applicant. Additionally, there is no motivation to modify Davies' device to create Applicant's claimed invention, because it would render Davie's device unsuitable for its intended purpose of maintaining the upper airway passage in an open, unobstructed position. There also would be no motivation or suggestion to combine Davies with any of the other references cited by the Examiner because Davies is directed to an apparatus that must provide complete rigid support to the wearer's neck and mandible, whereas, the other cited references are directed to a flexible collars.

Applicant also has listed additional patents of which Applicant is aware. Although these references are relevant to the area of technology of the present Application, Applicant believes they do not render Applicant's claimed invention unpatentable.

### Conclusion

Based on the Amendments and Remarks above, Applicant respectfully requests allowance of all pending claims.

Respectfully submitted,  
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